IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 16TH OCTOBER 2006 / 24TH ASWINA 1928

Crl.Rev.Pet.No. 605 of 2002()

CRA.420/2001 of VI ADDL.SESSIONS COURT, ERNAKULAM

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REVN. PETITIONER:

BABURAJ, C. NO.2166, CENTRAL PRISION,
VIYYUR (BABURAJ @ KARUPPAI BABU, MODIYIL
VEEDU, ERUMAKAD, PATHANAMTHITA)

BY ADV. SMT R.PADMAKUMARI(STATE BRIEF)

RESPONDENTS:

STATE OF KERALA

BY PUBLIC PROSECUTOR SHRI SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**K. PADMANABHAN NAIR, J.**

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CRL. R.P. NO. 605 OF 2002

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Dated this the 12th day of October, 2006

**O R D E R**

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The accused in C.C. No.423 of 2001 on the file of the Judicial First Class Magistrsate, Ernakulam is the Revision Petitioner. The revision petitioner was found guilty of the offence punishable under Section 27 of the Indian Arms Act as per the judgment dated 27.3.2001. But he was released on probation. Subsequently, the Probation Officer filed a report stating that the petitioner had not complied with the conditions of the bond. In the meanwhile petitioner was arrested in connection with another case and produced before the Chief Judicial Magistrate. He was under the judicial custody. He was produced before the learned Magistrate. He admitted that he had not complied with the conditions of the bond. In view of the admission made by the petitioner, the Magistrate cancelled the bond and sentenced him to undergo Rigorous Imprisonment for three years. Petitioner filed Crl. Appeal No.420 of 2001. The learned Sessions Judge dismissed the said appeal. This revision was submitted through the Superintendent of

the Central Prison, Thrissur.

2. Heard Smt. R. Padmakumari, counsel appointed for the petitioner as state brief and the learned Public Prosecutor. Learned counsel for the petitioner has strenuously argued before me that the cancellation of the bond and the sentence imposed on the petitioner are illegal and liable to be set aside. It was argued that the very allegation against the petitioner for arresting and taking into custody was that he was carrying an 'arm' as defined under the Arms Act and thereby committed the offence punishable under Section 27 of the Arms Act. It was argued that the very 'arm' alleged to have been carried by the petitioner was only a sickle, which is an implement used for domestic purposes and as such the petitioner would not have been charged under the provisions of the Arms Act. It was argued that because of the ignorance and the pressure exerted by the police, the petitioner pleaded guilty and in spite of the plea of guilty, the learned Magistrate was inclined to release the petitioner on probation. It was further argued that after release from the custody, the petitioner went to the Sneha Asramam and from there he went to his house. While he was coming back, he was taken into

custody again by the police from the bus stand. He was manhandled by the police and produced before the Chief Judicial Magistrate. It was argued that the case ultimately ended in acquittal but later the Magistrate cancelled the bond. It was argued that the petitioner was released on probation by the Magistrate on 27.3.2001. He was taken into custody by the police again on 5.4.2001. But the records of the case would show that the petitioner was taken into custody only on 7.4.2001. It was argued that the petitioner never got an opportunity to comply with the conditions of the bond. It was argued that the learned Magistrate without considering any of these aspects and without even proceeding for enquiry found that there is violation of the terms and conditions of the bond. On the other hand, learned Public Prosecutor submitted that the petitioner when produced before the Magistrate himself admitted that he had not complied with the terms and conditions of the bond and as such the Magistrate had no other option but only to cancel the bond and sentenced the petitioner.

3. Petitioner was charged for the offence under Section 27 of the Arms Act. He pleaded guilty. Finding that the plea of guilt was

made voluntarily, he was released under the Probation of Offenders Act. The District Probation Officer has filed a report before the Magistrate stating that the petitioner did not comply with the terms and conditions of the bond. That fact was admitted by the petitioner before the Magistrate. So I do not think it just and proper to set aside the order which is passed based on the admission made by the petitioner. Further, the petitioner had already suffered the sentence. It is also to be noted that the Magistrate had imposed only the minimum sentence provided under the Arms Act. So, there is no merit in the revision and the same is only to be dismissed.

In the result, the Criminal Revision Petition is dismissed.

**K. PADMANABHAN NAIR, JUDGE.**

**vsv**

**K. PADMANABHAN NAIR, J.**

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CRL. R.P. NO. 605 of 2002

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O R D E R

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12TH OCTOBER, 2006